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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213971
Party	Defendant DUMITRESCU CONSTANTIN
Correspondence Address	DUMITRESCU CONSTANTIN 28 BEDFORD AVE WESTBURY, NY 11590-4302 CONSTANTIN68@GMAIL.COM
Submission	Answer
Filer's Name	Constantin Dumitrescu
Filer's e-mail	constantin68@gmail.com
Signature	/CONSTANTIN DUMITRESCU/
Date	01/09/2014
Attachments	1.9.14-Trill-OppositionResponse.pdf(97627 bytes) 3.22.13-TRILL-USPTO-85883646-Exhibit1.pdf(16223 bytes) 5.9.13 PatentElectronicFiling-Provisional-Exhibit2.pdf(25568 bytes) 3.3.13-QTrills-GoDaddy-Exhibit3.pdf(11209 bytes) 3.19.13-iTrills-GoDaddy-Exhibit4.pdf(11222 bytes)

Response to the Notice of Opposition #91213971 for "t" Trademark

Attn: Trademark Trial and Appeal Board; Attorney ANN LINNEHAN

Re: Notice of Opposition # 91213971

United States Trademark Application (Serial No. 85/883,597)

DUMITRESCU CONSTANTIN
28 BEDFORD AVE
WESTBURY, NY, 11590
CONSTANTIN68@GMAIL.COM

- Response is provided below to all 35 points and Exhibit A, listed by the opposer, Deutsche Telekom AG:
- 1. My name is Constantin Dumitrescu, american citizen, living at 28 Bedford Ave, Westbury, NY, 11590; On March 22nd, 2013, I designed and applied for a "t" trademark (Serial No. 85/883.597) as a graphical symbol for my app or application, named TRILL (Serial No. 85/883.646). See Exhibit 1. It is an app for iOS and/or other mobile devices used to create and send messages between different devices. On the same day I applied for the "TRILL" trademark (Serial No. 85/883.646), both to be used for my invention titled: System and Method to generate and send messages, combining pre-programed short messages displayed inside icons (Provisional Application number 61/821,419 filing date 05/09/2013, confirmation number 8425). See Exhibit 2. I also registered 2 (two) web site domains, for my application (www.qtrills.com on 03/03/13 and www.itrills.com on 03/19/13). See Exhibit 3 and Exhibit 4.
- 2. I am an Engineer, working a full time job for a company named LIRO located in Syosset, Long Island, NY. On my spare time I tried to improve my creative life by starting a software application that will allow me to better communicate with my family and friends. I did extensive research, after creating the "t" mark, to see if there is something similar on-line. I did not find anything similar. On the first 20 pages, searching Google for instance, of graphical / images there was no reference to a "t" symbol. There was one mention of the "T" with capital T symbol from T-Mobile but that has nothing to do with my symbol. My "t" mark is not trying to represent something close to the "@" symbol, like DTAG is suggesting.

The partial circle surrounding the letter "t" starts on the upper side of the letter "t", and is the opposite to the "t@" stylized symbol used by DTAG, that is clearly trying to imitate the "@" symbol - as DTAG admits on their point #9. My lower-case letter "t" is modified to have a bold style, becoming dominant inside the slim partial circle. Even more different is the partial circle surrounding the letter "t": It is oval, not round and it is open on the right side, to allow me to continue the word "trill".

3. After I received the Notice of Opposition from DTAG I searched a lot of websites related to Deutsche Telekom and T-Mobile. I did not see the "t@" stylized symbol pretended to be used by DTAG or its affiliates, presented on the first 10 stylized symbols included in Exhibit A. I saw only the "T" with capital T symbol from T-Mobile but, again, that has nothing to do with my "t" mark.

4. N/A

- 5. I deny this statement. The "t" mark on my application has a partial circle surrounding the letter "t" and it starts on the upper side of the letter, in contrast to the "t@" stylized symbol used by DTAG, that is clearly trying to imitate the "@" symbol. My partial circle, around the lower case "t" has an oval shape, not a circle, like the DTAG's "t@" mark. The partial circle surrounding my letter "t" is open on the right side, to allow me to continue the word "trill". On the Exhibit A presented by DTAG, the last 7 (seven) marks show the capital letter "T" and my "t" mark has nothing to do with that as well, not in sight, sound or commercial impression.
- 6. I deny this statement. My application, named TRILL, will be used for my invention titled: System and Method to generate and send messages, combining pre-programed short messages displayed inside icons (Provisional Application number 61/821,419 filing date 05/09/2013, confirmation number 8425). I hope this will clarify the services where I intend to use my "t" mark, related to my "TRILL" messaging application. I am not aware of any messaging application in use by DTAG or its affiliates, where they are using their "t@" symbol, for any period of time.
- 7. I deny this statement. Again, for the first 10 "t@" stylized symbols/marks that DTAG are presenting on their Exhibit A, I could not find any actual use, on any web sites I searched for. So I don't see any priority based on its senior use of that mark. The last 7 (seven) marks show the capital letter "T" and my "t" mark has nothing to do with it. I started using my mark, in my designs for the TRILL trademark and messaging application, at the beginning of 2013. I registered 2 (two) web site domains, for my application (www.qtrills.com on 03/03/13 and www.itrills.com on 03/19/13). I have an invention titled: System and Method to generate and send messages, combining pre-programed short messages displayed inside icons (Provisional Application number 61/821,419 filing date 05/09/2013, confirmation number 8425). All are using the "t" and "TRILL" marks and symbols.

- 8. I repeat and re-allege each and every allegation set forth in Paragraphs 1-7.
- 9. I deny this statement. From the side-by-side comparison I can not see how my "t" mark is close to their skinny "t@" stylized mark, that is trying so hard to resemble the universal "@" sign. DTAG even admits to that. My "t" mark, I repeat, has nothing to do with the "@" symbol. My letter "t" is a bold letter, on the right side of the circle, my circle is only partial, it is not closed, as opposed to the DTAG's "t@" and original "@" symbols.
- 10. I deny this statement. The messaging application where I intend to use my "t" mark is very specific, for a messaging application Goods/Services class #038 Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks. It is the same class as my TRILL (Serial No. 85/883.646) trademark, and it will be used together for the same messaging application app. I could not find any messaging app by DTAG.
- 11. I deny this statement. My services are in fact one simple messaging application and I don't see how my consumers (I can only hope for a lot of them to buy my app from the app stores) and/or channels of trade have something to do with DTAG's. I searched the app store and I could not find any messaging application from DTAG. More than that, I could not find any application on the internet, using their "t@" symbol.
- 12. I deny this statement. I did not "modeled" my "t" mark after a non-existent "t@" trademark (at least I could not find a single one in use all over the internet and I have been searching for a few weeks now!) that DTAG claims it is "worldwide used and promoted for its goods and services".
- 13. I deny this statement. There are no identical services where I intend to use my "t" mark because DTAG is not using their "t@" mark for messaging applications.
- 14. I deny this statement. My trademark "t" will be used only for the TRILL messaging application, as an app, so it will not affect or "damage" DTAG in any way.
- 15. Accordingly, please allow my Trademark Application (Serial No. 85/883,597) to be approved because there is no "Likelihood of Confusion" with DTAG's trademarks.
- 16. I repeat and re-allege each and every allegation set forth in Paragraphs 1-15.
- 17. I respect DTAG's trademark rights but I repeat, my "t" trademark for an messaging application, as an app, has nothing to do with their "T" letter.
- 18. I deny this statement. I started using the "t" mark on my designs for the TRILL application before I even registered the 2 (two) web site domains. When my application is completed and the trademarks with the invention are approved I will start using it (www.qtrills.com on 03/03/13 and www.itrills.com on 03/19/13). See Exhibit 3.

- 19. I deny this statement. As I responded to Opposition point #5, the shape and design of my "t" trademark has nothing to do with the upper case "T" mentioned by DTAG. My partial circle, around the lower case "t", has an oval shape, not a circle, like the DTAG's "t@" symbol and it starts on the upper side of the letter "t", in contrast to the "t@" stylized symbol used by DTAG, that is clearly trying to imitate the "@" symbol. The partial circle surrounding my letter "t" is open on the right side, to allow me to continue the word "trill". My "t" design is black/white. Consequently, my mark is not even close to the DTAG's "t@" mark.
- 20. I deny this statement. As I responded to Opposition point #10, my service will provide a simple messaging application where I intend to use the "t" mark. Its conception is very specific, for a messaging application Goods/Services class #038 Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks.
- 21. I deny this statement. As a result, the service provided by my application has nothing to do with any services provided by DTAG. Again, I could not find any messaging app by DTAG.
- 22. I deny this statement. As I responded to Opposition point #12, I never "encountered" DTAG's "t@" mark before I received their opposition. After that, I still could not find a single one in use all over the internet, on DTAG companies web sites, although DTAG claims it is "worldwide used and promoted for its goods and services". Consequently, on information and belief, I did not "modeled" my "t" trademark after nobody.
- 23. I deny this statement. My messaging service app does not "overlaps and duplicates" any of the DTAG services.
- 24. I deny this statement. For all of the above reasons, please accept and register my application with Serial No. 85/883,597.
- 25. Accordingly, my application with Serial No. 85/883,597 should be accepted and approved for the "t" trademark.
- 26. I repeat and re-allege each and every allegation set forth in Paragraphs 1-25.
- 27. I deny this statement. My "t" for TRILL mark is not identical to any of the DTAG marks.
- 28. My "t" mark will become distinctive and readily identify the TRILL application as the source of the messaging service that my app will provide.
- 29. I tried to register with the United States Trademark Office all my designs before launching my TRILL messaging application. After completing and promoting my app, I do hope to have a long, continuous and prominent use of my registered trademarks.
- 30. N/A

- 31. I deny this statement. I intend to launch my application in the US app store. As we all know, any app from the app store can be downloaded worldwide. Statement of Use will follow shortly.
- 32. I deny this statement. I was not aware of the DTAG's "t@" trademark.
- 33. I deny this statement. My design and messaging application is at the beginning. My "t" trademark is different from any of the DTAG's marks so I doubt it "will cause irreparable injury to DTAG's business and reputation". No way!
- 34. I deny this statement. As I responded to Opposition point #33, my "t" mark is different from any of the DTAG's marks so there will be no diluting effect.
- 35. I deny this statement. Again, as I responded to Opposition points #33 and #34, my "t" trademark it is different from any of the DTAG's marks so there will be no trademark dilution by blurring effect.

WHEREFORE, I RESPECTFULLY request that my application with Serial No. 85/883,597 should be registered and approved for the trademark, and that judgment in this Opposition be entered in my favor and against the Opposer DTAG.

Respectfully submitted,

/Constantin Dumitrescu/

Constantin Dumitrescu

28 Bedford Ave, Westbury, NY, 11590

516 305-9495

CERTIFICATE OF SERVICE

I hereby certify that, on the 9th day of January, 2014, this Response to the Notice of Opposition was sent via First Class Mail to the Attorney for the Opposer at the address below:

Michael D. Adams
MAYER BROWN LLP
P.O. BOX 2828
Chicago, IL, 60690-2828

By: /Constantin Dumitrescu/

Constantin Dumitrescu

28 Bedford Ave

Westbury, NY, 11590

Trademark Electronic Application System (TEAS) filing receipt

- 1. YOUR MARK: TRILL (Standard Characters, mark.jpg)
 - The literal element of the mark consists of TRILL.
 - The mark consists of standard characters, without claim to any particular font, style, size, or color.
- 2. **YOUR SERIAL NUMBER:** We have received your U.S. Trademark Application and assigned serial number '85883646' to your submission. A summary of your application data is provided at the bottom of this message and serves as your official filing receipt. Please keep a copy of this information for your records. All correspondence concerning the application should reference your assigned serial number.
 - Please read all of the important information below. Not every mark is registrable with the USPTO and we do not refund the application filing fee(s) if a registration does not ultimately issue.
- 3. **RECEIVING E-MAIL COMMUNICATIONS/FILING DOCUMENTS ON-LINE:** If you have authorized receipt of correspondence by e-mail, please make sure that your server will accept USPTO e-mail and not treat it as SPAM. If you have not authorized communication by e-mail, please do so at any time by using the "Change of Correspondence Address" form, available at http://www.uspto.gov/trademarks/teas/correspondence.jsp. If you must submit correspondence to us, please use the Trademark Electronic Application System (TEAS) forms, available at http://www.uspto.gov/trademarks/teas/index.jsp.
- 4. **KEEP YOUR ADDRESS CURRENT IN USPTO RECORDS:** We do not extend filing deadlines due to a failure to receive USPTO mailings/e-mailings. You must update the correspondence and/or owner's address if a postal address and/or e-mail address changes, using the form(s) available at http://www.uspto.gov/trademarks/teas/correspondence.jsp.
- 5. WARNING ABOUT UNSOLICITED COMMUNICATIONS: You may receive trademark-related communications from private companies not associated with the USPTO. These communications frequently display customer-specific information, including your USPTO serial number or registration number and owner name, and request fees for trademark-related services, such as monitoring, listings in international publications, and document filing. None of the companies offering these services are affiliated with the USPTO or any other federal agency. All official correspondence will be from the "United States Patent and Trademark Office" in Alexandria, VA, and if by e-mail, specifically from the domain "@uspto.gov." Please consult the "Warning" page on the Trademarks section of the USPTO's website for further information about unsolicited communications and to view representative examples of them. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult www.uspto.gov, contact the TrademarkAssistanceCenter@uspto.gov or telephone 1-800-786-9199.
- 6. LEGAL EXAMINATION PROCESS: Your application is now pending examination. In

approximately 3 months, your application will be assigned to a USPTO examining attorney for review. The application cannot mature into a registration unless all legal requirements are met, and many applications never satisfy these requirements and therefore never register. The overall process can take up to 18 months.

7. CHECK STATUS AND REVIEW DOCUMENTS OR YOUR APPLICATION MAY BE UNINTENTIONALLY ABANDONED: You must check the status and review all documents associated with your application at least every 3-4 months using Trademark Status and Document Retrieval (TSDR), available at http://tsdr.uspto.gov/.

Promptly e-mail the <u>TrademarkAssistanceCenter@uspto.gov</u> or telephone 1-800-786-9199 (select option #1) if an Office action (letter from the USPTO) or notice has issued for your application that you did not receive or do not understand. Failure to respond timely to any Office action or notice may result in the abandonment of your application, requiring you to pay an additional fee to have your application revived even if you did not receive the Office action or notice.

- 8. **FILING ERRORS:** If you discover an error in the application data, you must file a Voluntary Amendment at http://www.uspto.gov/trademarks/teas/miscellaneous.jsp. Do **not** submit any proposed amendment to TEAS@uspto.gov, because the TEAS technical support team may not make any data changes. Please wait approximately 7 days after the filing date of your application to submit a Voluntary Amendment in order to allow for initial upload of your application data into the USPTO database. The assigned examining attorney will determine the acceptability of any Voluntary Amendment during examination. Not all errors may be corrected. For example, if you submitted the wrong mark or if the proposed correction would be considered a material alteration to your original filing, it will not be accepted. In this situation, your only recourse would be to file a new application, with a new fee and no refund of your original filing fee.
- 9. **REQUEST FOR REFUND AND/OR CANCELLATION:** Since your application has already been assigned a serial number, please do not contact <u>TEAS@uspto.gov</u> to request a refund or to cancel the filing. We will only cancel the filing and refund the filing fee if the application does not meet minimum filing requirements. The fee is a processing fee that the USPTO does not refund, even if your mark does not proceed to registration.
 - In the limited situation where you inadvertently filed identical applications, one immediately after the other, because no confirmation of the first filing was received, please provide both serial numbers to the technical support team at TEAS@uspto.gov.
- 10. <u>SelectUSA</u>: The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The U.S. offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to promote and facilitate business investment. SelectUSA provides information assistance to the international investor community; serves as an ombudsman for existing and potential investors; advocates on behalf of U.S. cities, states, and regions competing for global investment; and counsels U.S. economic development organizations on investment attraction best practices. To learn more about why the United States is the best country in the world to develop technology, manufacture products, deliver services, and grow your business, visit SelectUSA.gov or call +1-202-482-6800.

SUMMARY OF APPLICATION DATA FOLLOWS:

APPLICATION DATA: Trademark/Service Mark Application, Principal Register TEAS Plus Application

The applicant, DUMITRESCU CONSTANTIN, a citizen of United States, having an address of 28 BEDFORD AVE
WESTBURY, New York 11590
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 038: Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

DUMITRESCU CONSTANTIN
28 BEDFORD AVE
WESTBURY, New York 11590
5163059495(phone)
CONSTANTIN68@GMAIL.COM (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of

his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /constantin dumitrescu/ Date: 03/22/2013 Signatory's Name: CONSTANTIN DUMITRESCU

Signatory's Position: OWNER

20130322125417884942

Signatory's Phone Number: 5163059495

Thank you,

The TEAS support team
Fri Mar 22 13:01:40 EDT 2013
STAMP: USPTO/FTK-108.41.11.106-20130322130140692823-85883646500f0354e1c767a107dd0298516a2502299366c14ba8cda6b2dfad770aacb48c8-CC-9597-

Acknowledgement Receipt

The USPTO has received your submission at 15:15:21 Eastern Time on 09-MAY-2013.

\$ 65 fee paid by e-Filer via RAM with Confirmation Number: 1785.

eFiled	Appl	ication	Inform	ation

EFS I D	15735409
Application Number	61821419
Confirmation Number	8425
Title	SYSTEM AND METHOD TO GENERATE AND SEND MESSAGES, COMBINING PRE-PROGRAMED SHORT MESSAGES DISPLAYED INSIDE ICONS
First Named Inventor	Constantin Dumitrescu
Customer Number or Correspondence Address	Constantin Dumitrescu 28 Bedford Ave Westbury NY 11590 US 5163059495 constantin68@gmail.com
Filed By	Constantin Dumitrescu
Attorney Docket Number	
Filing Date	
Receipt Date	09-MAY-2013
Application Type	Provisional

Application Details

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Submitted Files	Page Count	Document Description	File Size	Warnings
Trill-Specification1.pdf	9	Specification	68336 bytes	◆ PASS
Trill-Claims1.pdf	2	Claims	43766 bytes	◆ PASS
TRILL-Drawings1.pdf	18	Drawings-only black and white line drawings	348933 bytes	◆ PASS
sb0015a- MicroEntity.pdf	2	Certification of Micro Entity (Gross Income Basis)	130855 bytes	◆ PASS
fee-info.pdf	2	Fee Worksheet (SB06)	29319 bytes	◆ PASS

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this

1 of 2 09.05.2013 15:20

Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

If you need help:

- To ask questions about Patent e-Filing, or to suggest improvements to the online system, or report technical problems, please call the Patent Electronic Business Center at (866) 217-9197 (toll free) or send email to EBC@uspto.gov.
- Send general questions about USPTO programs to the <u>USPTO Contact Center (UCC)</u>.
- For general questions regarding a petition, or requirements for filing a petition, contact the Office of Petitions Help Desk at 1 800-786-9199.

2 of 2 09.05.2013 15:20

Go Daddy

PRINT

Receipt#: 519626212

Billing Information

constantin dumitrescu 28 bedford ave westbury, NY 11590

US

Daytime Phone: 5163059495 Email: constantin68@gmail.com

Name: constantin dumitrescu

Paid: AMEX (\$33.85)

Account Number: ########2003

<u>Label</u> <u>Name</u>

105-1 .COM Domain Name Registration - 5 Years (recurring)

Subtotal: \$33.85

Shipping & Handling:

Tax: \$0.00

Total (United States Dollars): \$33.85

1 of 1 03.03.2013 18:56

Go Daddy

PRINT

Receipt#: 525739119

Billing Information

constantin dumitrescu 28 bedford ave westbury, NY 11590

US

Daytime Phone: 5163059495 Email: constantin68@gmail.com

Name: constantin dumitrescu

Paid: AMEX (\$9.34)

Account Number: ########2003

<u>Label</u> <u>Name</u>

102-1 .COM Domain Name Registration - 2 Years (recurring)

Subtotal: \$9.34

Shipping & Handling:

Tax: \$0.00

Total (United States Dollars): \$9.34

1 of 1 19.03.2013 16:35